

APPEAL NO. 92139  
FILED MAY 18, 1992

This appeal arises under the Texas Workers' Compensation Act of 1989 (1989 Act), TEX. REV. CIV. STAT. ANN. arts 8308-1.01 through 11.10 Vernon Supp. 1992). On March 10, 1992, (hearing officer) presided at this hearing in \_\_\_\_\_, Texas. He found that the Medical Review Division of this Commission should resolve whether it was reasonable for appellant, claimant herein, to be paid for mileage for travel from City 1 to City 2 to receive medical care. Claimant asserts that the proper forum is a benefit contested case hearing and not the Medical Review Division citing Articles 8308-8.21 and 8.26 of the 1989 Act.

DECISION

Finding that the decision conforms to the 1989 Act and to a prior Appeals Panel decision, we affirm.

Claimant was seriously injured on (date of injury), while in the course and scope of employment. The injury was witnessed and has not been contested either as to its occurrence or as to the extent of the injury. The employer in City 2, Texas, apparently knew after the accident that appellant intended to move to City 1 to be with his family for long term care, but strongly urged claimant to use the services of Dr. P, a neurosurgeon in City 2, to assure claimant got proper care. Surgery of the spine was accomplished on April 10, 1991, and claimant sought reimbursement for mileage for trips to City 2 both before and after that surgery. Evidence was offered as to the nonavailability of neurosurgeon/orthopaedic surgeons in the City 1 area who would take over management of the case after surgery, but such evidence is not pivotal to this decision.

Texas Workers' Compensation Commission Appeal No. 92024, decided March 9, 1992, on which the hearing officer relied in forming his decision states in part: "disputes relating to 'appropriate and necessary medical care for the injured employee's compensable injury' and whether travel to obtain same is 'reasonably necessary' should be submitted for review pursuant to the medical dispute resolution provisions of the 1989 Act and TWCC Rules." That decision was made after an examination of articles 8308-8.21 and 8.26 of the 1989 Act, which appellant herein cites as the basis for saying that the Medical Review Division should not regulate reimbursement of mileage.

Articles 8308-8.21 and 8.26 of the 1989 Act, as addressed by Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 133.305 and 134.6 and interpreted by Appeal No. 92024, *supra*, provides that the appropriate forum is the Medical Review Division. As a result, the decision of the hearing officer is upheld.

We affirm.

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Joe Sebesta  
Appeals Judge

CONCUR:

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Stark O. Sanders, Jr.  
Chief Appeals Judge

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Susan M. Kelley  
Appeals Judge